

**REMARKS**

In the Office Action, the Examiner took the following actions:

required Applicant to submit certain documents under 37 C.F.R. § 1.105;

objected to Applicant's priority claim under 37 C.F.R. § 1.52 and required Applicant to submit a certified English translation;

objected to the specification as an improper Information Disclosure Statement under 37 C.F.R. § 1.98(b);

objected to Figs. 8, 12, 13, 15, and 16 under 37 C.F.R. § 1.84;

rejected claims 1-18 under 35 U.S.C. § 101 for being directed towards nonstatutory subject matter;

rejected claims 3 and 4 under 35 U.S.C. § 112, second paragraph;

rejected claims 1, 5, 17, and 18 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent Publication No. 2003/0105770 to MacLeod et al. ("*MacLeod*");

rejected claim 2 under 35 U.S.C. § 103(a) as being unpatentable over *MacLeod* in view of U.S. Patent Application No. 2007/0208575 A1 to Habichler et al. ("*Habichler*");

rejected claims 3 and 4 under 35 U.S.C. § 103(a) as being unpatentable over *MacLeod* in view of U.S. Patent Application No. 2006/0085272 to Case et al. ("*Case*");

rejected claims 6-9 under 35 U.S.C. § 103(a) as being unpatentable over *MacLeod* in view of U.S. Patent Application No. 2006/0012476 to Markhovsky et al. ("*Markhovsky*");

rejected claims 10-15 under 35 U.S.C. § 103(a) as being unpatentable over *MacLeod* in view of U.S. Patent no. 7,243,082 to Forlai ("*Forlai*"); and

rejected claim 16 under 35 U.S.C. § 103(a) as being unpatentable over *MacLeod* in view of U.S. Patent Application No. 2004/0034555 A1 to Dismukes et al. ("*Dismukes*").

By this Amendment, Applicant amends claims 1, 2, 4-16 and 18, and cancels claims 3 and 17 without prejudice or disclaimer.

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**I. The Requirement Under 37 C.F.R. § 1.105**

The Office Action required Applicant to submit certain documents under 37 C.F.R. § 1.105 (Office Action at pages 2-3). Applicant has enclosed a copy of each required document with this Amendment. Each document required by the Office Action is also set forth on the attached IDS Form PTO/SB/08, with the exception of the certified translation of the foreign priority document, Japanese Patent Application No. 2005-130209.

**II. The Objection Under 37 C.F.R. § 1.52**

The Office Action objected to the specification under 37 C.F.R. § 1.52 for incorporating by reference a foreign priority document (Office Action at page 4). The Office Action states that a certified English translation of the priority application is required (Office Action at page 4). Applicant submits herewith a certified English translation of the priority application, Japanese Patent Application No. 2005-130209, and respectfully requests the Examiner to withdraw the objection.

**III. The Objection to the Specification**

The Office Action characterizes Applicant's originally-filed specification as an improper Information Disclosure Statement, because the specification lists certain documents (Office Action at page 4). Applicant submits herewith an Information Disclosure Statement citing the references identified in the specification and identified by the Office Action on pages 2-3. Accordingly, Applicant respectfully requests that the Examiner withdraw the objection to the specification.

**IV. The Objection to the Drawings**

The Office Action alleges that the drawings include certain informalities to FIGS. 8, 12, 13, 15, and 16 (Office Action at page 5). Applicant has amended FIGS. 8, 12, 13, 15, and 16 by the attached replacement sheets to cure the alleged informalities. Accordingly, Applicant respectfully requests that the Examiner withdraw the objection.

**V. The Rejection of Claims 1-18 under 35 U.S.C. § 101**

Claims 3 and 17 have been canceled, rendering the rejection moot with respect to these claims.

With respect to claim 1, the Office Action alleges that the claim is directed toward “software per se” (Office Action at page 6). Amended claim 1 recites a “processor,” and accordingly does not recite “software per se.” Moreover, claim recites statutory subject matter at least under the statutory category of “machine.” Claims 2 and 4-16 were apparently rejected solely due to their dependence from claim 1. Accordingly, Applicant respectfully requests the Examiner to withdraw the rejection of claims 1, 2, and 4-16 under 35 U.S.C. § 101.

With respect to claim 18, the Office Action alleges that the claim “is not tied to ... [a] statutory class.” Amended claim 18 recites “[a] method ... executed by an apparatus... comprising a processor” (emphasis added). Accordingly, claim 18 is tied at least to the statutory category of “machine.” Therefore, Applicant respectfully requests the Examiner to withdraw the rejection of claim 18 under 35 U.S.C. § 101.

**VI. The Rejection of Claims 3 and 4 under 35 U.S.C. § 112, second paragraph**

The Office Action alleges that the term “highest degree of approximation” recited in claims 3 and 4 is indefinite (Office Action at page 7). Claim 3 has been canceled, and

claim 4 has been amended to delete the allegedly indefinite phrases. Accordingly, Applicant respectfully requests the Examiner to withdraw the rejection of claim 4 under 35 U.S.C. § 112, second paragraph.

**VII. The Rejection of Claims 1, 5, 17, and 18 under 35 U.S.C. § 102(b)**

Applicant respectfully traverses the rejection of claims 1, 5, 17, and 18 under 35 U.S.C. § 102(e) as being anticipated by *MacLeod*. Claim 17 has been canceled, rendering the rejection moot with respect to this claim.

Independent claim 1 recites an apparatus for updating a hierarchical classification dictionary comprising, among other things, “an approximate proposal extracting unit that extracts one of the past received proposals ... that approximates a latest received proposal ... wherein the search technique used to extract the past received proposal differs based on whether the latest received proposal is a proposal to edit the hierarchical classification dictionary or a proposal to add to the hierarchical classification dictionary” (emphasis added).

*MacLeod* discloses a “directory schema” with object classes that have flexible attributes that can be extended (*MacLeod*, abstract). *MacLeod* further discloses an exemplary procedure for changing multiple object instances of a class, without modifying the directory schema (*MacLeod*, ¶ 74 and FIG. 6). The procedure begins by assigning a data string such as XML to an attribute of an object instance (*MacLeod*, ¶ 75 and FIG. 6, ref. 612).

The Office Action relies on *MacLeod*’s assignment of data strings to attributes as allegedly corresponding to the claimed “extracts ... past received proposals” (Office Action at page 8). However, the claimed extracting unit uses a “search technique ...

[that] differs based on ... the latest received proposal.” In contrast, *MacLeod* does not disclose using a “search technique” to extract a proposal, or that such a technique varies with some characteristic of the proposal. For these reasons, *MacLeod* does not teach or suggest “an approximate proposal extracting unit that extracts one of the past received proposals ... that approximates a latest received proposal ... wherein the search technique used to extract the past received proposal differs based on whether the latest received proposal is a proposal to edit the hierarchical classification dictionary or a proposal to add to the hierarchical classification dictionary” as recited by independent claim 1 (emphasis added).

Accordingly, *MacLeod* cannot anticipate or even render obvious independent claim 1. Independent claim 18, although of different scope, is allowable at least for similar reasons as discussed above with respect to claim 1. Claim 5 is allowable at least due to its dependence from independent claim 1. Applicant therefore respectfully requests the Examiner to withdraw the rejection of claims 1, 5, and 18 under 35 U.S.C. § 102(b) as being anticipated by *MacLeod* and allow these claims.

**VIII. The Rejection of Claim 2 under 35 U.S.C. § 103(a)**

Applicant respectfully traverses the rejection of claim 2 under 35 U.S.C. § 103(a). Claim 2 depends from claim 1. As already discussed, *MacLeod* fails to teach or suggest certain features of independent claim 1.

*Habichler* fails to cure the deficiencies of *MacLeod*. *Habichler* discloses a method and system for independent approval of self-assessed competencies by appropriate reviewers (*Habichler*, abstract). The approval can be implemented using an automated approval process where validated reviewers provide approvals of self-

assessed competencies (*Habichler*, ¶ 116). The Office Action relies on *Habichler*'s automated approval process in addressing certain recitations of dependent claim 2 (Office Action at page 12). However, even assuming the Office Action is correct (a position Applicant does not concede), *Habichler* does not disclose or suggest different search techniques for extracting proposals. For these reasons, *Habichler* does not teach or suggest "an approximate proposal extracting unit that extracts one of the past received proposals ... that approximates a latest received proposal ... wherein the search technique used to extract the past received proposal differs based on whether the latest received proposal is a proposal to edit the hierarchical classification dictionary or a proposal to add to the hierarchical classification dictionary" as recited by independent claim 1 (emphasis added).

For at least the reasons discussed above, claim 2 is allowable over the cited references, at least due to its dependence from allowable base claim 1.

**IX. The Rejection of Claims 3 and 4 under 35 U.S.C. § 103(a)**

Applicant respectfully traverses the rejection of claims 3 and 4 under 35 U.S.C. § 103(a). Claim 3 has been canceled, rendering the rejection moot with respect to claim 3. Claim 4 depends from claim 1. As already discussed, *MacLeod* fails to teach or suggest certain features of independent claim 1.

*Case* fails to cure the deficiencies of *MacLeod*. *Case* discloses a system and method for helping users determine, evaluate, and place orders for nutritional formulations (*Case*, abstract). *Case*'s system can also identify to users suggested groups of nutrients for their intended use (*Case*, ¶ 10). *Case* also discloses that the system includes one or more databases containing suggested minimum or maximum

concentrations of nutrients (Case, ¶ 10). The Office Action relies upon these teachings of Case when addressing certain features of claim 4 (Office Action at pages 14-15). However, even assuming the Office Action is correct (a position Applicant does not concede), Case does not disclose or suggest different search techniques for extracting proposals. For these reasons, Case does not teach or suggest “an approximate proposal extracting unit that extracts one of the past received proposals ... that approximates a latest received proposal ... wherein the search technique used to extract the past received proposal differs based on whether the latest received proposal is a proposal to edit the hierarchical classification dictionary or a proposal to add to the hierarchical classification dictionary” as recited by independent claim 1 (emphasis added).

For at least the reasons discussed above, claim 4 is allowable over the cited references, at least due to its dependence from allowable base claim 1.

**X. The Rejection of Claims 6-9 under 35 U.S.C. § 103(a)**

Applicant respectfully traverses the rejection of claims 6-9 under 35 U.S.C. § 103(a). Claims 6-9 depend from claim 1. As already discussed, *MacLeod* fails to teach or suggest certain features of independent claim 1.

*Markhovsky* fails to cure the deficiencies of *MacLeod*. *Markhovsky* discloses a wireless system and method for determining the location of a fixed or mobile subject, using a transponder on the target and a transceiver for monitoring the location of the target (*Markhovsky*, abstract). *Markhovsky* also discloses that larger antennas are needed for higher RF wavelengths (*Markhovsky*, ¶ 6). The Office Action relies upon these teachings of *Markhovsky* when addressing certain features of claim 6 (Office

Action at page 15). However, even assuming the Office Action is correct (a position Applicant does not concede), *Markhovsky* does not disclose or suggest different search techniques for extracting proposals. For these reasons, *Markhovsky* does not teach or suggest “an approximate proposal extracting unit that extracts one of the past received proposals ... that approximates a latest received proposal ... wherein the search technique used to extract the past received proposal differs based on whether the latest received proposal is a proposal to edit the hierarchical classification dictionary or a proposal to add to the hierarchical classification dictionary” as recited by independent claim 1 (emphasis added).

For at least the reasons discussed above, claims 6-9 are allowable over the cited references, at least due to their dependence from allowable base claim 1.

**XI. The Rejection of Claims 10-15 under 35 U.S.C. § 103(a)**

Applicant respectfully traverses the rejection of claims 6-9 under 35 U.S.C. § 103(a). Claims 10-15 depend from claim 1. As already discussed, *MacLeod* fails to teach or suggest certain features of independent claim 1.

*Forlai* fails to cure the deficiencies of *MacLeod*. *Forlai* discloses a method and apparatus for generating a sale offer using a web site (*Forlai*, abstract). The sale offer may be for a good or service purchased for free or near zero, to entice web traffic to the web site (*Forlai*, abstract). Buyers who accept the offer may sign in to provide their name and address, and are also given another opportunity to reject the offer (*Forlai*, col. 20, lines 33-45). The Office Action relies upon these teachings of *Forlai* when addressing certain features of claim 10 (Office Action at page 17). However, even assuming the Office Action is correct (a position Applicant does not concede), *Forlai*



does not disclose or suggest different search techniques for extracting proposals. For these reasons, *Forlai* does not teach or suggest “an approximate proposal extracting unit that extracts one of the past received proposals ... that approximates a latest received proposal ... wherein the search technique used to extract the past received proposal differs based on whether the latest received proposal is a proposal to edit the hierarchical classification dictionary or a proposal to add to the hierarchical classification dictionary” as recited by independent claim 1 (emphasis added).

For at least the reasons discussed above, claims 10-15 are allowable over the cited references, at least due to their dependence from allowable base claim 1.

**XII. The Rejection of Claim 16 under 35 U.S.C. § 103(a)**

Applicant respectfully traverses the rejection of claim 16 under 35 U.S.C. § 103(a). Claim 16 depends from claim 1. As already discussed, *MacLeod* fails to teach or suggest certain features of independent claim 1.

*Dismukes* fails to cure the deficiencies of *MacLeod*. *Dismukes* discloses a method and system for relating productivity to a manufacturing system to thereby provide an analysis of the manufacturing system (*Dismukes*, abstract). *Dismukes* also discloses a simulation package that shortens the amount of time required to simulate a production line of the manufacturing system (*Dismukes*, ¶ 395). The Office Action relies upon these teachings of *Dismukes* when addressing certain features of claim 16 (Office Action at pages 20-21). However, even assuming the Office Action is correct (a position Applicant does not concede), *Dismukes* does not disclose or suggest different search techniques for extracting proposals. For these reasons, *Dismukes* does not teach or suggest “an approximate proposal extracting unit that extracts one of the past received

proposals ... that approximates a latest received proposal ... wherein the search technique used to extract the past received proposal differs based on whether the latest received proposal is a proposal to edit the hierarchical classification dictionary or a proposal to add to the hierarchical classification dictionary" as recited by independent claim 1 (emphasis added).

For at least the reasons discussed above, claim 16 is allowable over the cited references, at least due to its dependence from allowable base claim 1.

### **XIII. Conclusion**

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: June 3, 2009

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### **Attachments:**

Information Disclosure Statement ("IDS"), PTO Form SB/08, and copies of references cited therein

Certified copy of priority application, Japanese Patent Application No. 2005-130209  
Five (5) Replacement Sheets including Figures 8, 12, 13, 15, and 16